

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-cv-249-FL

MATTHEW BRADLEY,	)	
	)	<b>DEFENDANT ANALYTICAL</b>
Plaintiff,	)	<b>GRAMMAR, INC.'S APPENDIX</b>
v.	)	<b>TO LOCAL CIVIL RULE 56.1</b>
	)	<b>STATEMENT OF</b>
ANALYTICAL GRAMMAR, INC.,	)	<b>UNDISPUTED MATERIAL FACTS IN</b>
	)	<b>SUPPORT OF ITS MOTION FOR</b>
Defendant.	)	<b>SUMMARY JUDGMENT</b>

Exhibit 2: Deposition Transcript of Matthew Bradley taken December 12, 2019  
(Ex. 1 to Declaration of D. Booth)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

MATTHEW BRADLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 19-cv-249 (FL)
	)	
ANALYTICAL GRAMMAR, INC.,	)	
	)	
Defendant.	)	
	)	
	)	

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DEPOSITION  
OF  
MATTHEW BRADLEY

This is the deposition of MATTHEW BRADLEY, taken pursuant to Notice of the parties and in accordance with the North Carolina Rules of Civil Procedure before Kathleen M. Van Voorhis, RPR, at 301 Fayetteville Street, Suite 1400, Raleigh, North Carolina, on the 12th day of December, 2019, beginning at 10:00 a.m.

The reading and signing of this transcript is reserved.

A P P E A R A N C E S

Plaintiff: Allan IP Litigation  
409 East Boulevard  
Charlotte, North Carolina 28203  
Albert Allan, Esq., appearing

Defendant: Parker Poe Adams & Bernstein, LLP  
301 Fayetteville Street  
Suite 1400  
Raleigh, North Carolina 27602  
Catherine Lawson, Esq., appearing  
and  
Sloan Carpenter, Esq., appearing

I N D E X

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Whereupon, at 10:00 A.M.:

MATTHEW BRADLEY,

having been duly sworn,

was examined and testifies as follows:

DIRECT EXAMINATION BY MS. LAWSON:

Q. All right. Welcome, Mr. Bradley. I hope that your travel went smoothly.

A. It's all right.

Q. All right. First thing we're going to look over is just to confirm your notice of deposition.

(Whereupon, Defendant's 1 is marked for identification.)

Q. This is the Notice of Deposition that told you you were going to be here today. I assume that you have seen this?

A. Yes.

Q. And that you're here pursuant to it. Great.

MR. ALLAN: There was a supplemental that changed it to 10:00 per my request and I do appreciate that consideration, so the record is clear.

Q. Thank you. All right. The first thing we're going to do is just go through a couple of background facts and instructions. Will you first please state your full name for the record?

A. Matthew Joseph Bradley.

1 Q. Have you ever been deposed before?

2 A. No.

3 Q. Okay. So, in this deposition as you see our court  
4 reporter is going to be recording all of our back and forth  
5 questions and answers so it's important that you give a verbal  
6 response to any questions that I ask, that is a yes or no  
7 instead of a nod or un-huh. It makes for a cleaner record.  
8 Does that make sense?

9 A. Yes.

10 Q. You understand you're under oath this morning?

11 A. Yes.

12 Q. You understand that means you're obligated to give  
13 complete and truthful answers to my questions?

14 A. Yes.

15 Q. Are you aware of anything that might affect your  
16 ability to truthfully answer my questions today?

17 A. No.

18 Q. All right. As we go back and forth and get into kind  
19 of all of these documents and questions, it's also important  
20 that we try not to interrupt each other, again, for the  
21 clarity of the record. Does that make sense?

22 A. Yes.

23 Q. Okay. Great. If you need to take a break at any  
24 point, just go ahead and ask me. The only restriction on that  
25 that I will request that if I have asked a question you have

1 to answer that question before we take a break.

2 A. I understand.

3 Q. Okay. All right. Mr. Bradley, could you please  
4 describe your educational background for me?

5 A. I have an undergraduate degree from Cornell  
6 majoring in physics, then a master's degree in mechanical  
7 engineering from Penn State University and I was working on a  
8 PhD in electrical engineering until I got too busy with  
9 work.

10 Q. When was that?

11 A. Which?

12 Q. The PhD.

13 A. That was after the master's so the master's was in  
14 '93, so after that through about '96.

15 Q. Okay. So you stopped working on --

16 A. Pretty much. I think that was the dates but it has  
17 been twenty something years so I might be off by a year or  
18 two.

19 Q. Okay. Are you currently employed?

20 A. Yes.

21 Q. Where?

22 A. I am a high tech consultant.

23 Q. Can you describe for me what that means?

24 A. The easiest way to describe it is to use an example.  
25 Do you remember the Motorola StarTac phone?



1 Q. Uh-huh.

2 A. I built the production line for Motorola for that  
3 phone, things like that. That's probably the easiest way to  
4 explain it. If I get into more details it's not very  
5 informative and tends to be boring.

6 Q. Fair. Do you do that as a freelancer, contract  
7 worker?

8 A. Contract.

9 Q. Contract. Okay. And how long have you been doing  
10 that?

11 A. Since 1994, full-time since 1998.

12 Q. And what did you do before that?

13 A. I was on the faculty at Penn State University.

14 Q. And before that?

15 A. I was in school.

16 Q. Okay. In any of these prior work experiences or your  
17 current work experiences, do you have experience with  
18 copyrights?

19 A. No.

20 Q. Before the subject matter of this lawsuit, had you  
21 ever filed for a copyright?

22 A. No.

23 Q. Okay. All right. I'm going to hand you your  
24 Superseding Answers and Objections to Defendant's First Set of  
25 Interrogatories.

(Whereupon, Defendant's 2 is  
marked for identification.)

Q. And then with that also the Objections and Responses  
to the First Set of Request for Production of Documents.

(Whereupon, Defendant's 3 is  
marked for identification.)

Q. Feel free to take a minute to familiarize yourself  
with these. Have you seen these before?

A. Yeah. This one I haven't but this one I'll take a  
look at to see if I have seen this one. Okay. Yeah. I'm  
just trying to figure out how these are different.

Q. So, Exhibit 2 is your responses to the  
interrogatories.

A. Yes.

Q. Exhibit 3 is the responses to the request for document  
production.

A. Oh, I see. Yes. Okay. I understand now. Yes, I  
have seen both of them.

Q. You have seen both of them?

A. Yeah.

Q. Do you remember when you first saw these?

A. It would have been about October 30th or so.

Q. Okay. How did you go about answering the  
interrogatories in Exhibit 2?

A. Sat down in front of my computer and typed out answers

1 to all of them. For Exhibit 2 I'm trying to think if there  
2 was anything else. I had to look up a couple things on my  
3 computer where I had all of the information. It was all done  
4 within an hour.

5 Q. Okay.

6 A. Maybe two.

7 Q. If you'll turn to page three of the responses to the  
8 interrogatories you see the large hyperlink in the answer to  
9 interrogatory number two?

10 A. Yes, uh-huh.

11 Q. That hyperlink is broken when you put it into a web  
12 browser. Do you know if the post for your Facebook post  
13 that's the subject matter of the complaint is still live?

14 A. Yes, it is.

15 Q. Okay. Is it still public?

16 A. I don't know for certain. I believe it is.

17 Q. Okay. I represent to you that we looked, went to look  
18 for it on your public Facebook page and it was not there. So,  
19 if that is something that can be confirmed and a fresh link  
20 sent as a supplement to the interrogatory responses, that  
21 would be helpful.

22 A. Okay.

23 Q. However, as you said in your answer to interrogatory  
24 number two, when the post was first made, it was public?

25 A. That's correct.

1 Q. Okay. Considering the request for production of  
2 documents, how did you go about identifying documents that  
3 were responsive to those requests?

4 A. Well, all of the documents, almost all of them at  
5 least I can think of right now, were emails so I have them all  
6 in a folder that I, because I organized everything that way,  
7 and I just grabbed all of those emails, exported them and that  
8 was it.

9 Q. Okay.

10 A. The couple other ones, I think there were some PDFs  
11 that were from different Facebook posts and I just used  
12 Facebook to export them to PDFs. I'm not sure if I remember  
13 exactly how I did that, whether I went through Word or not but  
14 I didn't do anything very complicated, not very remarkable.

15 Q. Okay. So, other than Facebook posts and email files,  
16 did you do any other searching for responsive documents?

17 A. I didn't have any other responsive documents. All  
18 that was in either Facebook or in emails.

19 Q. All right. How did you go about searching your  
20 Facebook posts for responsive posts or messages or other  
21 materials?

22 A. Basically based on my memory of, first of all, there  
23 was the one on the Facebook post itself and then my memory of  
24 when I first -- the only other Facebook posts that were  
25 involved were around September 15th where I started receiving

1 rather strange and insulting posts on my Facebook page for  
2 other posts and that was easy to find because I remember the  
3 date and I just went through and grabbed those as well.  
4 That's all there is to it.

5 Q. Okay. So, you were primarily guided by memory?

6 A. There wasn't much to remember even.

7 Q. Okay. How many email accounts do you have?

8 A. Two primary ones. One, I probably have some throw  
9 away ones like gmail ones I never use.

10 Q. Which email account did you use to communicate about  
11 the subject matter of your complaint?

12 A. mbradley@bradtech.com.

13 Q. Did you ever use another or a different email  
14 account?

15 A. Not to the best of my knowledge, no.

16 Q. Okay. Did you search that other email account for any  
17 potentially responsive emails?

18 A. No.

19 Q. What is that other email account primarily used for?

20 A. At times I have been a part-time adjunct faculty  
21 member of Santa Rosa Junior College and it's used for  
22 communications about for my department and class work and  
23 stuff like that.

24 Q. Do you use social media apps, messaging apps of any  
25 kind to communication?

1 A. Facebook Messenger is the only one I can think of.

2 Q. Okay. Did you search Facebook Messenger for any  
3 potentially responsive communications?

4 A. No. I know there is nothing in there that is  
5 responsive.

6 Q. And is that knowledge based on your memory?

7 A. Yes.

8 Q. Do you use any other social media accounts other than  
9 Facebook?

10 A. Can you give me some examples?

11 Q. Twitter?

12 A. No.

13 Q. Instagram?

14 A. No.

15 Q. What's App, Tik Tok?

16 A. I had an account on What's App that I used for talking  
17 to some of my clients and I haven't even used it in years.

18 Q. Okay. Snapchat?

19 A. No.

20 Q. Tumbler?

21 A. No.

22 Q. Okay. Let's talk about the post. Mr. Bradley, are  
23 you familiar with the concept of a meme?

24 A. Yes.

25 Q. How would you define a meme?

1 A. Well, I guess I would say it's a picture with some  
2 words on it.

3 Q. Okay. Do you know what it means when something goes  
4 viral?

5 A. Yes.

6 Q. How would you define that?

7 A. Where all of a sudden it's all over the internet and  
8 for usually for no explained reason.

9 Q. What's the point of a meme?

10 A. I suppose that would depend on the person, the author  
11 of the meme.

12 Q. Okay.

13 A. So, that's kind of a very open-ended question. It  
14 depends on the meme and it depends on the author.

15 Q. Can you elaborate?

16 A. Well, I might make ten memes and have ten different  
17 points for them. Somebody else might make ten different memes  
18 and have ten different points for them. So, that's a very  
19 open-ended question and quite frankly it's almost impossible  
20 to answer.

21 (Whereupon, Defendant's 4 is  
22 marked for identification.)

23 Q. I give you Exhibit 4. It is a Merriam-Webster print  
24 out definition. You can look on page two at the definition of  
25 a meme.

1 A. Okay.

2 Q. So, you see here that it defines a meme as an idea,  
3 behavior, style, or usage that spreads from person to person  
4 within a culture. Memes, discrete units of knowledge, gossip,  
5 jokes and so on, are to culture what genes are to life. Just  
6 as biological evolution is driven by the survival of the  
7 fittest genes in the gene pool, cultural evolution may be  
8 driven by the most successful memes. Mr. Bradley, have you  
9 ever shared a meme through social media, primarily Facebook as  
10 you said?

11 A. Yes.

12 Q. Okay. Are you generally aware that when people share  
13 memes through social media they do it without attribution?

14 A. I am not aware of that.

15 Q. Okay. When you shared memes on your social media, did  
16 you know who the original author of the meme was?

17 A. I assumed that it was whoever was posting it in the  
18 first place. So, I do not, if I am going to share something,  
19 I share it with the attribution of the person who I saw it  
20 from posted from.

21 Q. Who you most recently saw it from or from the very  
22 first person who posted it?

23 A. The very first person.

24 Q. So, when you see a meme you track the entire history  
25 of its life on the internet to find the very first instance of



1 its appearance?

2 A. I have never seen it more than once, so.

3 Q. Okay.

4 A. I have never had to do that.

5 Q. Okay. So, when you see a meme, you assume that the  
6 person posting that meme is the author and you reposted it?

7 A. That's correct.

8 Q. Okay. Did you ask that person's permission before you  
9 posted it?

10 A. No because every time that I have shared a meme it has  
11 been public, so that is not required.

12 Q. So, you find it significant that a public meme does  
13 not require permission for reposting?

14 A. As long as I am continuing, what's the word I'm  
15 looking for, as long as I still retain the information of who  
16 it's from.

17 Q. Can you describe for me what you mean by that?

18 A. I would take someone else's picture and then remove  
19 the information as to who it is from and then share that.

20 Q. Remove the information from the picture?

21 A. From the post.

22 Q. So, you are talking about resharing a post, not a  
23 picture?

24 A. That's correct. I don't reshare pictures. I only  
25 reshare the post because that has the information on it as to

1 who it came from.

2 Q. Okay. Thank you. All right. What prompted you to  
3 make the wrong on many levels meme?

4 A. I frequently take pictures of things I think are  
5 amusing and share them on Facebook. That's all.

6 Q. Were you aware of prior memes that had a similar play  
7 on imagery and words as the one you ended up creating?

8 A. I don't know. I have since seen similar memes when I  
9 searched on my own and I don't know if I had seen them before  
10 I had done my own or not.

11 Q. Okay. We'll just walk through a couple of examples of  
12 those pre-existing.

13 (Whereupon, Defendant's 5 is  
14 marked for identification.)

15 Q. Here you can see down at the bottom where the full URL  
16 is that it shows that this was created on 2012/3/9, that's  
17 either going to be probably March 9th and here you can see on  
18 that first page it has a image with two plus two equals five  
19 on top of a level with the joke this is wrong on so many  
20 levels?

21 A. Uh-huh.

22 Q. Do you remember if you had ever seen this before  
23 December 2017?

24 A. I have never seen it before today.

25 Q. Okay.

(Whereupon, Defendant's 6 is  
marked for identification.)

Q. This is Exhibit 6. Here you see this is a post on  
Twitter dated August 1st, 2016. It has several levels with  
the word wrong written on them. The caption, rather the post  
says well this is wrong on so many levels. Do you remember  
having seen this prior to December 2017?

A. No, I don't.

Q. Okay.

(Whereupon, Defendant's 7 is  
marked for identification.)

Q. This is Exhibit 7. This appears to be the same  
picture as the one in Exhibit 6, but different post. This  
this one is to Facebook. Do you remember seeing this prior to  
your December 2017 post?

A. No, I do not.

(Whereupon, Defendant's 8 is  
marked for identification.)

Q. Okay. The last one, Exhibit 8, again, same picture as  
Exhibit 6, again on Twitter with a different person. Do you  
remember having seen this prior to December 2017?

A. No, I do not.

Q. If you can try to let me finish the question before  
answering, just to make it easier on our court reporter.

A. Sorry.

1 Q. Okay. So, you were not aware of any of these prior  
2 memes before you created your own image?

3 A. I have not been aware of them, that's correct.

4 Q. Okay. All right. I'm going to make sure we are all  
5 on the same page when we refer to the photograph. This is the  
6 complaint that was submitted in this case.

7 (Whereupon, Defendant's 9 is  
8 marked for identification.)

9 Q. Mr. Bradley, you are aware that this is the complaint  
10 that you filed in this case?

11 A. Yes.

12 Q. If you flip to the back, couple pages from the back,  
13 Exhibit A.

14 A. There?

15 Q. One more forward. That one is Exhibit B.

16 A. I see.

17 Q. All right. Mr. Bradley, this is your Exhibit A to  
18 your complaint.

19 A. Uh-huh.

20 Q. So, this is the photograph that you posted on  
21 Facebook, correct?

22 A. Yes.

23 Q. Okay. Do you still have the original photograph on  
24 your phone or computer?

25 A. Yes, I do.

1 Q. Okay. And you took that photograph yourself, correct?

2 A. Yes, I did.

3 Q. Okay. All right. So, for the rest of this deposition  
4 when I refer to the photograph, Exhibit A to your complaint is  
5 what I'm referring to. Is that understood?

6 A. Yes.

7 Q. Okay. Did you post this photograph anywhere other  
8 than Facebook?

9 A. No.

10 Q. Why did you post it on Facebook?

11 A. I often post pictures that I think are funny.

12 Q. And I believe you already said earlier that the  
13 privacy setting when you posted it was to public?

14 A. Correct.

15 Q. Why was it public?

16 A. If my friends want to share, share one of my posts,  
17 I'm perfectly fine with that.

18 Q. Okay. Are you aware that your conduct on Facebook is  
19 governed by the terms and services of Facebook?

20 A. Yes.

21 Q. Have you read those terms and services before?

22 A. I have.

23 (Whereupon, Defendant's 10 is  
24 marked for identification.)

25 Q. Okay. If you look on that first page at section two,

1 Sharing your Content and Information, do you see that? So,  
2 heading two, little subheading one, it says that, "For content  
3 that is governed by intellectual property rights, like photos  
4 and videos, IP content, you specifically give us the following  
5 permission, subject to your privacy and application settings:  
6 you grant us an non-exclusive, transferable, sub-licensable,  
7 royalty-free, worldwide license to use any IP content that you  
8 post on or in connection with Facebook. This IP License ends  
9 when you delete your IP content or your account unless your  
10 content has been shared with others and they have not deleted  
11 it". Do you agree that that is what that says?

12 A. I do.

13 Q. So, these are the terms and conditions that govern  
14 your activity on Facebook, correct?

15 A. Correct.

16 Q. Okay. So, you understand that based on that language,  
17 you granted a license to the photograph?

18 A. To Facebook.

19 Q. Okay.

20 A. Yes.

21 Q. Okay. All right. Looking at the photograph as it is  
22 shown in Exhibit A, so you confirm that this is a picture that  
23 was first posted to your Facebook account, correct?

24 A. Yes.

25 Q. Okay. Can you describe the copyright management

1 information that identifies you as the photographer of the  
2 photograph?

3 A. There is the -- I'm sorry. Could you please repeat  
4 that question, make sure I understand it.

5 Q. Can you describe, what on the photograph indicates  
6 that you are the photographer?

7 A. There is the metadata on the photograph itself which  
8 identifies me as the photographer, my phone more  
9 specifically.

10 Q. Okay. Is that metadata included in the Facebook  
11 post?

12 A. As far as I'm aware it is.

13 Q. Have you confirmed that?

14 A. No.

15 Q. Have you produced that metadata?

16 A. To my legal counsel.

17 (Whereupon, Defendant's 11 is  
18 marked for identification.)

19 Q. I'm going to mark this is now the December 17 post.  
20 All right. Mr. Bradley, this is what you produced as the  
21 December 17 Post PDF.

22 A. Yes.

23 Q. Now, the image that appears in this is not the  
24 original image from December 2017, correct?

25 A. Correct.

1 Q. So, this is what you produced to us in response to our  
2 request that you show us the Facebook post and the photograph.  
3 Did you produce us metadata from this post that connects it to  
4 your authorship?

5 A. The metadata is part of the photograph itself. You  
6 would have to have the ability to read that metadata to get it  
7 off of that. That's not going to be on a document like  
8 this.

9 Q. So, did you confirm that if somebody on Facebook right  
10 clicked on that photograph, that it would show the metadata  
11 that you claim identifies you as the author?

12 A. I did not.

13 Q. Okay. Looking at the photograph as it is portrayed in  
14 Exhibit A of the complaint, so setting aside the metadata that  
15 has not been produced, what about that photograph tells us  
16 that you were the author?

17 A. The photograph itself does not. It's the post that  
18 does, which has my name on it.

19 Q. Okay. So, the post, the entire post, not the  
20 photograph, but the post is what you claim provides the  
21 management information for your copyright?

22 A. It provides the proof that I am the author of it,  
23 yes.

24 Q. Okay. But that information is not in the photograph?

25 A. No.



1 Q. Okay.

2 A. It is in the metadata of the photograph, but not  
3 visible in the photo as it is shown.

4 Q. Okay. But today you cannot prove to me that that  
5 metadata is either included in the Facebook post or that it  
6 has been produced in this case?

7 A. Again, I provided that to my lawyer. I do not know if  
8 Facebook, if it, Facebook postings preserve the metadata  
9 information. I'm unaware of that.

10 Q. Okay.

11 A. It may be, it may not, I don't know.

12 Q. Okay. So, other than the metadata that you don't know  
13 if whether or not it is included with the photograph when it  
14 gets posted to Facebook, does the photograph have your  
15 copyright management information within the four corners of  
16 the photograph?

17 A. No, not the original.

18 Q. Okay. Correct. Which is the December 2017  
19 photograph?

20 A. Yes.

21 Q. All right. Similarly, that copyright management  
22 information is not a watermark on the photograph?

23 A. No.

24 Q. You did not put the copyright management information  
25 on a sticker and attach it to the photograph before posting it

1 to your Facebook?

2 A. I did not.

3 Q. The copyright management information was not affixed  
4 to the photograph in some way, correct?

5 A. It was not.

6 Q. So, if somebody copied the photograph itself, the  
7 copyright management information that you claim is in the post  
8 would not have been copied with it?

9 A. That's correct.

10 Q. So, to your knowledge if somebody copied just the  
11 photograph from your Facebook page and posted it somewhere  
12 else on Facebook, the copyright management information you're  
13 describing would not necessarily be copied with it?

14 A. That's correct.

15 Q. So, posting a copy of the photograph without that  
16 copyright management information would not require removing  
17 the copyright information from the photograph, would it?

18 A. I mean, from a technical perspective it would not  
19 require it.

20 MR. ALLAN: Just answer the question.

21 A. I'm just trying to make sure I understood it, that's  
22 all.

23 Q. All right. Unless you need a break, we're going to  
24 start walking through the comments on the post. Is that okay?

25 A. We're going to go through all of them?

1 Q. Not one by one but the sticky tabs for them.

2 A. All right.

3 Q. Okay. All right. If you look at the first page of  
4 Exhibit 11, see Josh Vallee says, "This is good, I just might  
5 have to steal this one"?

6 A. Right.

7 Q. Okay. If you look on the second page you respond to  
8 him saying, "Go ahead"?

9 A. Right. An explanation, he is my --

10 MR. ALLAN: There is no question.

11 A. Okay.

12 Q. If you look still at that first page to the lower  
13 right hand corner of Vallee's post, do you see that little  
14 one?

15 A. Yes.

16 Q. Is that an indication of a like of his comment?

17 A. I don't know.

18 Q. Okay. We weren't able to confirm whether or not it is  
19 a like because the post appears to no longer be public. So,  
20 that is one of the reasons we need a fresh, live link to the  
21 post. Do you remember if you liked his comment?

22 A. That I liked it, is that a Facebook like?

23 Q. A Facebook like.

24 A. I don't remember.

25 Q. Okay. If you look at page two, so MB 014, about two

1 thirds of the way down, Tonya Liburd says, "Stealing", do you  
2 see that?

3 A. Uh-huh.

4 Q. Again, it looks like we have an indication that her  
5 comment was liked. Do you remember whether you Facebook liked  
6 her comment?

7 A. I don't recall.

8 Q. Okay. All right. We're going to turn to page MB 026.

9 A. Okay.

10 Q. All right. Right under the image that's there, Joseph  
11 Hennessy also commented, "I had to steal this", and it again  
12 appears somebody has Facebook liked his comment. Do you  
13 remember if you Facebook liked his comment?

14 A. I do not.

15 Q. Okay. Mr. Bradley, did you read all of these comments  
16 when they started coming on to your post?

17 A. Probably not all of them.

18 Q. Did you notice that this many people were commenting  
19 on your post?

20 A. Yes.

21 Q. Did you notice how many people were sharing your  
22 post?

23 A. Yes.

24 Q. When you first made this post in December 2017, what  
25 did you expect would happen?

1 A. As with other posts I have done there, I might get  
2 five to ten, maybe fifty at most likes. Typically that's what  
3 usually happens with my posts. Josh, for example, always  
4 tends to like my posts so I wasn't surprised at all he was the  
5 first one to like it.

6 Q. Okay. Did you expect to do anything else with the  
7 meme that you created?

8 A. At that time, no.

9 Q. So, you did not expect it to go viral?

10 A. No.

11 Q. You did not expect to use it on merchandise of any  
12 kind?

13 A. At that time, no.

14 Q. So that you expected five to ten, maybe fifty people  
15 to like it. Did you expect people to share it?

16 A. Maybe a couple.

17 Q. But you did expect that at least one person might  
18 share it?

19 A. I didn't expect it. I wouldn't have been surprised.

20 Q. When did you first realize that your meme was going  
21 viral?

22 A. I believe it was not too long later that night after I  
23 posted it when there was a couple, maybe a hundred shares all  
24 of a sudden or something like that, that just seemed to be an  
25 enormous number for me.

1 Q. Okay. When did you first see it published by someone  
2 other than yourself?

3 A. December 2018.

4 Q. So, between December 2017 and December 2018 you were  
5 unaware that other places were posting your meme?

6 A. That's correct.

7 Q. If we can turn to MB 040. All right. You see there  
8 is a comment by Angie Fogo Moulton and you responded to it  
9 saying, "Sorry, the picture is the joke. I included the link  
10 to my blog because I thought people might enjoy it. I really  
11 didn't expect 100 shares, so this is kind of surprising to  
12 me". Then you have a parenthetical comment. This was it says  
13 that it was one year ago, so presumably that's one year ago  
14 from --

15 A. I believe that is probably not correct because from  
16 what I understand Facebook, for example, it would have to be  
17 if we looked at it today, December 7th of this year it would  
18 still say one year and then if we look at it December 8th then  
19 it just goes to two years, but this was shortly after,  
20 probably within a week of the original posting.

21 Q. All right. Again, if we had the live version of the  
22 post we would be able to more easily verify whether that one  
23 year mark means December '18 or December '17, so again, if you  
24 could figure out where the post still lives that would be  
25 helpful in confirming that, but to your memory you believe

1 that this was still within a week of the December 2017 post?

2 A. Correct. Almost all of the comments were within a  
3 couple of weeks of the original posting.

4 Q. Okay. So, within a week of the original posting you  
5 were aware that it was being widely shared?

6 A. Shared, yes.

7 Q. Okay. If you turn the page to 41, this is why I  
8 question the timeline of Moulton's comment being one week  
9 after, you see here Mick Macklemore making a comment about the  
10 edit. Did you make an edit to your post prior to December  
11 2018?

12 A. Yes. I put in the link to my blog.

13 Q. Okay.

14 A. That's all. At that point there was 12,000 shares.

15 Q. Did you look at the shares as they were happening?

16 A. The first couple of weeks.

17 Q. So, after that you didn't really follow up on the  
18 subsequent shares in your Facebook history?

19 A. I would look perhaps once a month and they hadn't been  
20 changing much after that, it was still at 19,000, some odd  
21 number of shares.

22 Q. So, by changing much you mean the number of shares?

23 A. The number of shares, yes.

24 Q. Okay. Did you go through to look at the individual  
25 shares that were happening to see what those ultimate reshares

1 looked like?

2 A. At first I did but with that many shares I didn't  
3 bother.

4 Q. Why?

5 A. It took too much of my time.

6 Q. Why did you add the link to your blog to the post?

7 A. Because I wanted people to read my blog.

8 Q. All right. You see here that same thread on page 41  
9 between you and Mick Macklemore?

10 A. Yes.

11 Q. It says at the bottom of his response to you, view 29  
12 more replies, and that's an unexpanded list of replies?

13 A. Yes. He just kept insulting me and saying I was  
14 sleazy for including my blog link on there and one of my  
15 friends, Verna, defended me and he started saying nasty things  
16 to her and I said well, she has every right to be here, she's  
17 one of my friends, you're not, and that's it. At which point  
18 he blocked me which is why you see the blank. I don't know  
19 why it didn't print out all 29 replies.

20 Q. Okay. The rest of those replies are about the post?

21 A. Yes, about the linking to the blog.

22 Q. Okay. Mr. Bradley, what was your response when the  
23 meme started going viral?

24 A. From the Facebook perspective I was pleased.

25 Q. What about not the Facebook perspective?



1 A. Then I was concerned because I wasn't aware that it  
2 was so widespread other than the shares on Facebook and I was  
3 both a little flattered and a little annoyed that people were  
4 stealing it, not sharing it, but literally stealing it because  
5 when I see somebody say on Facebook that they're stealing  
6 something I assume they mean sharing because that's what  
7 typically people say, that's what they do and I was concerned  
8 that people were actually stealing it and not sharing it.

9 Q. Okay. So, when you hear somebody saying that they're  
10 going to steal it, to you that means sharing?

11 A. Yes.

12 Q. What's the basis of that belief?

13 A. Just like my friend Josh, who is my cousin's husband,  
14 when he says steal it he means share it. Other people that I  
15 have had say steal it, they mean share it because they  
16 actually do share it. They don't really steal it.

17 Q. Were all of the people circulating the photograph your  
18 friends?

19 A. No, but I assumed that when since everyone else that I  
20 had ever heard say steal it meant share it, I assumed that  
21 that was true of all of the rest.

22 Q. But it was just an assumption on your part?

23 A. It was.

24 Q. Okay. All right. If we turn to MB 43, so here about  
25 half way down we see your friend Josh Vallee commenting

1 again?

2 A. Yes.

3 Q. "OMG, this got some traction Matthew", and you respond  
4 to him saying, "I know, still can't believe it, I am stunned,  
5 the good news is I thought of something even better, coming  
6 soon"?

7 A. Yeah.

8 Q. So, is this an accurate statement that you were  
9 stunned in a happy way when it started going viral?

10 A. Yes. Again, this is just after, this is still  
11 probably around 13,000 shares.

12 Q. Okay.

13 A. So, it's still within about a week or two of the  
14 original posting.

15 Q. And then here you see down at the bottom of that back  
16 and forth between you and Josh there is another option to view  
17 one more reply?

18 A. Yeah. I don't remember off hand what that is.

19 Q. Okay. So, Mr. Bradley, earlier you said that you  
20 believed you first became aware that other mediums were  
21 sharing the photograph in December of 2018; is that correct?

22 A. Yes. To the best of my knowledge, that is correct.

23 Q. Okay. This is now Exhibit 12.

24 (Whereupon, Defendant's 12 is  
25 marked for identification.)

1 Q. You see that this is a post from you on April 20,  
2 2018?

3 A. Yes, that is true. I had forgotten that one.

4 Q. Okay. Tell me what this post is?

5 A. Well, my friend Luke Thompson had let me know that my  
6 picture was on The Most Clever Puns the Internet Has to  
7 Offer.

8 Q. Why did you share that article?

9 A. Well, I was pleased that it had been shown somewhere  
10 else.

11 Q. Somewhere else meaning not Facebook?

12 A. That's correct.

13 Q. Okay. If you look at your first comment under that  
14 post you say, "Hey, I'm famous, my picture made the list of  
15 the most clever puns on the internet, woo hoo"?

16 A. Yes.

17 Q. You were excited by this coverage?

18 A. Granted.

19 Q. Okay. If you look at the third comment that you have  
20 on that post you say, "About my picture, 'The person who came  
21 up with this one definitely leveled up in the pun game'", is  
22 that a quote from the article?

23 A. I believe that is.

24 Q. Okay. Since the article said the person who came up  
25 with this one, does that mean that the article did not

1 identify you as the creator of the meme?

2 A. That's correct.

3 Q. And yet you still shared this article and celebrated  
4 it?

5 A. Yes.

6 Q. Okay. Were you aware of other articles that  
7 celebrated the photograph?

8 A. To my knowledge, not until about December of 2018.

9 Q. Okay.

10 (Whereupon, Defendant's 13 is  
11 marked for identification.)

12 Q. All right. Exhibit 13 is a BuzzFeed article, 17 Puns  
13 That You'll Need to be a Little Clever to Get, posted on  
14 January 27, 2018?

15 A. Uh-huh.

16 Q. And the puns in the back did not print their images  
17 for unknown reasons. Let's see. If you look at AG 0036, you  
18 can see number six there, this pun, which is just wrong on so  
19 many levels?

20 A. Uh-huh.

21 Q. With what appears to be the photograph, correct?

22 A. Correct.

23 Q. Okay. And this does not identify you?

24 A. That is also correct.

25 Q. In any way?

1 A. Correct.

2 Q. Do you remember seeing this article?

3 A. No, I do not.

4 Q. Okay.

5 (Whereupon, Defendant's 14 is  
6 marked for identification.)

7 Q. This is an article from August 26, 2019, The Most  
8 Clever Puns The Internet Has To Offer, on page starting on  
9 AG 0072 towards the end you can first see at the bottom the  
10 caption, that's so wrong, and on the next page appears to be a  
11 clipped version of the photograph, correct?

12 A. Yes.

13 Q. This does not identify you with the photograph,  
14 correct?

15 A. That's correct.

16 Q. Okay. Have you seen this article before?

17 A. Not to my knowledge, no.

18 Q. Okay.

19 (Whereupon, Defendant's 15 is  
20 marked for identification.)

21 Q. Okay. So, you see this is a post on Facebook from  
22 Unilad Tech?

23 A. Okay.

24 Q. And that is the photograph, correct?

25 A. Yes.

1 Q. With the caption this is wrong on so many levels?

2 A. Yes.

3 Q. This does not identify you with the photograph,  
4 correct?

5 A. That's correct.

6 Q. Do you remember having seen this before today?

7 A. No, I do not.

8 Q. Okay.

9 (Whereupon, Defendant's 16 is  
10 marked for identification.)

11 Q. This is the Twisted Sifter. This is an article that  
12 was published on September 18, 2019, The Shirk Report on  
13 page --

14 A. 51.

15 Q. Thank you. That is a picture of the photograph?

16 A. Uh-huh.

17 Q. With no connection between you and the photograph,  
18 correct?

19 A. Correct.

20 Q. Do you remember having seen this before today?

21 A. No, I do not.

22 (Whereupon, Defendant's 17 is  
23 marked for identification.)

24 Q. This is from Flip image and you see this is actually  
25 other memes regarding levels?

1 A. Uh-huh.

2 Q. So, this meme is wrong on so many levels on that first  
3 page there?

4 A. Uh-huh.

5 Q. Do you recall seeing any of these?

6 A. No.

7 Q. All right. You never saw any of those images prior to  
8 December, 2017?

9 A. Not to my knowledge.

10 Q. Okay. All right. So looking at the Exhibits 14, 15,  
11 16 and the BuzzFeed article, do any of these articles identify  
12 authors of the memes?

13 A. You mean are you talking about the other pictures?

14 Q. Uh-huh.

15 A. I don't know. I haven't looked at the articles.

16 Q. Okay. Do you want to pull out Exhibit 14?

17 A. I don't see any.

18 Q. Okay.

19 A. And I would have to look at each and every one, but I  
20 don't see any.

21 Q. Okay. That's fine. Mr. Bradley, since December 2017  
22 when you made the wrong on so many levels meme, have you since  
23 posted other memes and hoped that they would go viral?

24 A. Well, according to the definition you have of memes it  
25 almost has to go viral for it to be a meme so by that

1 definition no because nothing else that I posted on my  
2 personal Facebook pages had that same reaction.

3 Q. Have you posted other images with words overlaid in  
4 them in a funny or cleaver way that you intended for people to  
5 share?

6 A. Yes.

7 Q. Okay. Go back to the, yeah, full post, MB 058.

8 A. Okay.

9 Q. About two thirds of the way down you see that you made  
10 a comment, "If you liked my previous post check out the latest  
11 one, dot dot dot"?

12 A. Yes.

13 Q. So, you were encouraging people who had looked at,  
14 commented, shared and liked the photograph to follow your  
15 other materials?

16 A. Yes.

17 Q. And to share, comment, like?

18 A. Yes.

19 Q. Okay. You wanted those other images?

20 A. Yes.

21 Q. To be shared and to go viral?

22 A. Yes.

23 Q. Okay.

24 (Whereupon, Defendant's 18 is  
25 marked for identification.)



1 Q. I'm handing you a document marked MB 70. So, this is  
2 a post of yours, yes?

3 A. Correct.

4 Q. Okay. So, you posted several photos of a hammer  
5 followed by drills with commentary on them?

6 A. Yes.

7 Q. Within this image or this series of images that you  
8 posted, did your name appear on those images?

9 A. On the images, no.

10 Q. Okay. Your first comment there on MB 071 says, "As  
11 always, please feel free to share"?

12 A. Correct.

13 Q. Okay. And then, if you see further down below,  
14 Jennifer Ippoliti says, "Matt, Matt, Matt, have you learned  
15 nothing from the so many levels debacle? Watermark those  
16 photos, man".

17 A. Uh-huh.

18 Q. Well, then there is 17 replies, I'm not sure if that's  
19 above or below your comment, but your second comment to her on  
20 this page says, well, your first comment says, "Actually, I  
21 copyrighted that photo". Your second comment says, "And I'll  
22 do the same here if it takes off"?

23 A. Yes. And I meant immediately, not waiting for it.

24 MR. ALLAN: Wait until there is a question.

25 A. Sorry. Sorry. Sorry.

1 Q. Why would you not copyright it immediately?

2 A. It costs money.

3 Q. Why would you not put your name in a watermark on the  
4 image immediately?

5 A. I hadn't thought of it.

6 Q. Why wait until it becomes popular?

7 A. Again, because copyrighting it would cost money and I  
8 just didn't feel like spending money on anything unless  
9 somebody liked it, it actually took off.

10 Q. So, until after it went viral?

11 A. Correct.

12 Q. Okay.

13 (Whereupon, Defendant's 19 is  
14 marked for identification.)

15 Q. So, this is another post by you?

16 A. Yes.

17 Q. Okay. And this is another pun, Buoy's will be Buoy's  
18 but they're buoys?

19 A. Yes.

20 Q. So, this is another meme that you created?

21 A. Uh-huh.

22 Q. Are those photographs your photographs?

23 A. No, they're not.

24 Q. Okay. In the drills pictures, the previous exhibit,  
25 were those photographs your photographs?

1 A. Yes, they were.

2 Q. Those ones were. Okay. But the photographs on  
3 Exhibit 19 are not?

4 A. No, they're not.

5 Q. Okay. This also does not have within those images any  
6 association of your name?

7 A. That's correct.

8 Q. No watermark claiming them as yours?

9 A. That's correct.

10 Q. Okay. Mr. Bradley, Exhibit 19 was not produced by  
11 you?

12 A. No, it wasn't.

13 Q. Okay. Why?

14 A. I don't understand the question.

15 Q. Okay.

16 A. Why wasn't it produced by me?

17 Q. Uh-huh.

18 A. I didn't take the pictures.

19 Q. But you made the post?

20 A. Yes.

21 Q. Okay. Can you explain to me why the fact that you did  
22 not take the pictures made you believe that this Facebook post  
23 of a meme that you shared was not responsive?

24 A. At the time I did not understand what the copyright  
25 laws were.

1 Q. Can you explain what you mean by that?

2 A. I didn't understand what could and could not be  
3 copyrighted.

4 Q. What's the impact of that lack of understanding?

5 A. Well, if anybody had copyrighted these photos, I would  
6 be liable for a copyright infringement on those individually,  
7 so.

8 Q. What's the basis for your belief in that?

9 A. What I have learned about copyright laws since then.

10 MR. ALLAN: You can answer the question to the extent  
11 it doesn't disclose communications you had with counsel.

12 A. No, that's before what I read in December 2018 about  
13 copyright law.

14 Q. Okay.

15 (Whereupon, Defendant's 20 is  
16 marked for identification.)

17 Q. This is not a meme. This is a news article,  
18 correct?

19 A. Correct.

20 Q. Okay. You can turn to page two, see that Tyler Potter  
21 commented, "No matter which side you take, it's just wrong on  
22 so many levels". You responded, "It's everywhere now. I met  
23 a guy at work who said that was one of his favorite pictures  
24 on the internet. He uses it all the time. When he found out  
25 I took it, he acted like he was meeting a celebrity idol"?

1 A. Yes.

2 Q. Okay. How did you respond to the person at work  
3 telling you that it's one of his favorite pictures on the  
4 internet and that he uses it all of the time?

5 A. I warned him to be careful of copyright  
6 infringement.

7 Q. You warned him to be careful of copyright  
8 infringement?

9 A. Yes.

10 Q. So, you say he acted like he was meeting a celebrity  
11 idol?

12 A. Yes.

13 Q. Was that pleasing?

14 A. Yes.

15 Q. Okay. You can pull out the request for production  
16 responses that you gave. That's Exhibit 3.

17 A. Okay.

18 Q. All right. If you could turn to page nine. At the  
19 top of the page document request number 22 says, asks you to  
20 produce documents sufficient to show and identify any  
21 photograph or other creative work that Plaintiff created or  
22 authored and posted online.

23 MR. ALLAN: Where are we?

24 Q. Page nine at the top, number 22.

25 MR. ALLAN: Okay.

1 Q. Documents sufficient to show and identify any  
2 photograph or other creative work that Plaintiff created or  
3 authored and posted online with the intent, design, aim, hope  
4 or purpose that it would become a meme, your response to that  
5 RFP was Plaintiff does not have any documents in his  
6 possession responsive to request number 22, do you see that?

7 A. Yes.

8 Q. Looking again at Exhibit 19?

9 A. Yes.

10 Q. Is this a meme?

11 A. No, not at this point.

12 Q. What do you think it is?

13 A. Just a picture that I made.

14 Q. Okay. Is it a creative work?

15 A. Yes.

16 Q. Okay. So, it's a creative work that you made?

17 A. Yes.

18 Q. Okay. And you posted it online, yes?

19 A. Yes.

20 Q. And did you believe it might become a meme?

21 A. Maybe, but honestly I have no idea what makes  
22 something a meme so I just posted.

23 Q. Did you hope people would share it?

24 A. Not really. I guess I would have been pleased if  
25 people shared it but I didn't hope that they shared it.

1 Q. Okay. If you look at the comment on, the first  
2 comment on Exhibit 19, Josh Vallee says, "Another attempt? I  
3 don't know if anything will top your first one", and then you  
4 respond, "That was lightning in a bottle. I had many before,  
5 I will have more in the future. If I get lucky again, well,  
6 it happens"?

7 A. Yeah.

8 Q. That's the hope, that the creative works you make will  
9 go viral?

10 A. No. It's a statement that if it ever happens again,  
11 because I don't know if it ever will. I'm not trying to  
12 necessarily. I'm just posting things that I think are  
13 funny.

14 Q. You say I will have more in the future?

15 A. More pictures like that. I frequently post pictures  
16 like that.

17 Q. Okay. And that was the basis for why you believe that  
18 this post was not responsive to request for production number  
19 22?

20 A. Yeah. I'm not trying to make anything become, go  
21 viral. I just posted just as much as I had before, just as  
22 much as I have since, maybe a little less actually. I have  
23 been busier.

24 Q. Have you created other creative works similar to  
25 Exhibit 19 that you did not produce?

1 A. Yes.

2 Q. How many?

3 A. Same reason, I don't know how many. I have been doing  
4 it for years on Facebook.

5 Q. Okay. So, you're not aware of how many other of these  
6 types of creative works?

7 A. No. Sometimes I do one or two a week. Sometimes it's  
8 months between them. So, it's just something I do for fun to  
9 share with my friends. I don't think of them as something I'm  
10 trying to make go viral because I don't have any idea how to  
11 do that.

12 Q. Do you hope any of them will be shared?

13 A. Not hope. Pleased if they are shared but if they  
14 aren't it's like I'm doing it for my friends, like I said. If  
15 they want to share them, fine, if they don't, fine.

16 Q. You're posting them for public consumption?

17 A. Yes.

18 Q. Okay.

19 A. As I said, if they want to share them, fine.

20 Q. Okay. All right. If you go to page MB 063 of the  
21 December 17 Post document, Exhibit 11.

22 MR. ALLAN: I'm sorry. What page?

23 MS. LAWSON: 063.

24 Q. Down at the very bottom of the page, Ricco Wayne  
25 Fleming said, "Matthew Bradley, can you post a non meme



1 version? It'd be fun to see who gets it without the actual  
2 phrase". And the next page you say, "No problem", and you  
3 provide a link to a post?

4 A. I believe that is the link to the original post before  
5 the edits, but I'm not certain.

6 Q. Okay. So, this is requesting a link back to the  
7 photograph as it appears in Exhibit 2 of your complaint, not  
8 the edited version that you posted after December 2018,  
9 correct?

10 A. I believe that's correct, yes.

11 Q. Okay.

12 (Whereupon, Defendant's 21 is  
13 marked for identification.)

14 A. I had forgotten I had even posted this.

15 Q. All right. So, this is, to the best of your  
16 recollection is this the post that you were linking to in the  
17 unmeme'd version?

18 A. I believe this is, but the difference is that it does  
19 have the copyright information on it.

20 Q. This is dated December 15th, 2018?

21 A. Yes.

22 Q. So, this one has the actual a copyright watermark down  
23 at the bottom right hand corner, correct?

24 A. I don't call it a watermark. I just call it a  
25 copyright. A watermark is a different thing.

1 Q. Fair enough. All right.

2 (Whereupon, Defendant's 22 and 23  
3 are marked for identification.)

4 Q. All right. We're going to look at 22 and 23 together.  
5 So, Exhibit 22, MB 066 is what you produced as the edit  
6 history for the December 2017 post, and then Exhibit 23,  
7 AG 0010, is what Analytical Grammar produced as the edit  
8 history it found when the post was still public. Can you  
9 explain why your production shows an incomplete edit  
10 history?

11 MR. ALLAN: Objection. You can answer.

12 A. As far as I know, it would probably be a Facebook --  
13 better off asking Facebook that question. I have no idea.

14 Q. Okay. All right. So, looking at Exhibit 23, you can  
15 see that it first shows this is wrong on so many levels  
16 December 8th, 2017 at 5:02 P.M. and the image there is  
17 missing, but the image there was the photograph, correct?

18 A. That's correct.

19 Q. Then it shows that on December 14th, 2017 at  
20 11:31 A.M. you edited it to add wow, I am stunned and then you  
21 provide a link to your blog, correct?

22 A. Correct.

23 Q. Okay. And then there is another edit on December  
24 14th, 2017, not too long later, where then you add an  
25 explanation for why you edited the post's caption, correct?

1 A. Correct.

2 Q. Okay. And then we see down on December 14th, 2018 at  
3 10:48 P.M. you added a notation, "Please note that this  
4 picture is copyrighted. I appreciate all of you who shared  
5 it, very unexpectedly. Some people, however, are passing it  
6 off as their own work. I took the picture with my phone.  
7 This is the original photo, meme added"?

8 A. Uh-huh.

9 Q. That was when you substituted the picture that now  
10 appears on page one of Exhibit 11, correct?

11 A. I can verify that. Exhibit 11.

12 Q. Yes. It's the large, it's the post one right there.

13 A. This one?

14 Q. Uh-huh.

15 A. I believe that's correct.

16 Q. Okay.

17 Q. What prompted you to change the picture?

18 A. Well, there are two changes to the picture. One is  
19 adding the words and the other is adding the copyright. The  
20 words, I just thought that some people had commented that I  
21 should add the words and I figured while I'm doing that I  
22 might as well add that as well. The copyright is for my own  
23 protection.

24 Q. Okay. What prompted the change?

25 A. Which change?

1 Q. The change to the photograph?

2 A. Which change to the photograph?

3 Q. Let's take them one by one. What prompted the  
4 addition of the actual, the pun joke?

5 A. As I said, you just asked that question and I said  
6 people suggested that it would be better to have the words in  
7 there as well..

8 Q. Right. But this was a year later?

9 A. Yes.

10 Q. What made you go between December 2017 to December  
11 2018 to decide now is the time that I'm going to change the  
12 words?

13 A. That week I didn't have anything to do because of my  
14 work situation. I was also going to be having surgery shortly  
15 and I just happened to revisit it that week and took care of  
16 it then.

17 Q. Okay. Then what prompted the addition of the  
18 copyright?

19 A. I had copyrighted it.

20 Q. Okay. So, you had at that point received your  
21 registration?

22 A. No. I had filed it.

23 Q. Okay. What prompted you to file that?

24 A. To answer that question fully I'm going to start with  
25 Dick from accounting, and --

1 MR. ALLAN: Before you give cryptic answers, don't  
2 disclose any communications with your attorney.

3 A. I won't.

4 MR. ALLAN: Okay.

5 A. As I said --

6 Q. If I may interrupt you very quickly, I'm not asking  
7 about the substance of any communications with an attorney but  
8 if you did talk to an attorney that fact is something you can  
9 share.

10 A. No. What happened was, as I said, that week I didn't  
11 have anything to do workwise and I just happened to do a  
12 Google image search and that's when I found out that it was  
13 all over the place and I clicked on the first one and it was a  
14 Reddit post and it was my photo and somebody had put their,  
15 given themselves credit and the first name was Dick from  
16 accounting and that annoyed me and at that point I decided to  
17 see -- there were two problems there, one is somebody had  
18 taken the picture and used it somewhere else without my  
19 knowledge, and second of all they had taken credit for  
20 themselves. Both of those annoyed me and so then I started to  
21 look into copyrighting it.

22 Q. Okay. And then looking again at page MB 13 of that  
23 exhibit.

24 A. Uh-huh.

25 Q. Exhibit 11, so you have the text superimposed, this is

1 wrong on so many levels, and down in the right hand corner you  
2 have copyright 2018 Matthew J. Bradley?

3 A. Yes.

4 Q. The copyright application was not an image of the  
5 photograph with that text on it, correct?

6 A. No. That is not correct. It was both with and  
7 without the text.

8 Q. Okay.

9 (Whereupon, a recess was taken.)

10 Q. Welcome back. Mr. Bradley, you understand that you  
11 are still under oath, correct?

12 A. Yes.

13 Q. Okay. Let's turn back to Exhibit 2, the superseding  
14 answers and objections to the first set of interrogatories.

15 A. Yes.

16 Q. Okay. If you can turn to page nine, if can you just  
17 confirm for me that that is your signature?

18 A. Yes.

19 Q. Okay. Thank you. And then if you can turn to page  
20 eight, please, excuse me, page six. I'm sorry.

21 A. Uh-huh.

22 Q. All right. If you can look at interrogatory number 11  
23 down towards the bottom. In your response to that  
24 interrogatory you said, "Plaintiff's name was conveyed in  
25 connection with the initial publication of the photograph on

1 his Facebook page", do you see that?

2 A. Yes.

3 Q. Okay. You are the plaintiff referred to in this  
4 response, correct?

5 A. Correct.

6 Q. Okay. Other than your name, do you claim that there  
7 is any copyright management information conveyed in connection  
8 with the initial publication of the photograph?

9 A. No. I agree with you.

10 Q. Okay. So, just to confirm some of what you said  
11 earlier, there was no copyright tag that appeared in  
12 connection with the initial publication of the photograph?

13 A. Correct.

14 Q. Sorry. What?

15 A. Correct.

16 Q. Okay. Was there any author attribution line conveyed  
17 in connection with the initial publication of the  
18 photograph?

19 A. The Facebook post itself has my name on it.

20 Q. Okay. But not the photograph itself?

21 A. That's correct.

22 Q. Okay. Is there any information that identified you as  
23 the photographer conveyed in connection with the initial  
24 publication of the photograph?

25 A. Publication, yes, because it was on my Facebook page

1 and it had my name on it.

2 Q. Was there any information that identified you as the  
3 photographer on the photograph?

4 A. No.

5 Q. Okay. All right.

6 (Whereupon, Defendant's 24 is  
7 marked for identification.)

8 Q. This is the December 16, 2017 post by Analytical  
9 Grammar/Grammar Planet that shows the photograph along with  
10 the caption this is wrong on so many levels, correct?

11 A. Correct.

12 Q. That image that appears there, is there anything that  
13 was removed from the photograph?

14 A. From the photograph, the photograph itself, no. I  
15 can't say whether any metadata was removed or not because I  
16 can't tell from this.

17 Q. So, to your knowledge nothing was removed from the  
18 photograph when it was shared here?

19 A. That's correct.

20 Q. Sorry. Can you answer?

21 A. That's correct.

22 Q. Thank you.

23 MR. ALLAN: Let her finish the question. Take your  
24 time.

25 A. Sorry.



1 Q. Okay. So, you said earlier that in December 2018 you  
2 decided to apply for a copyright registration, correct?

3 A. Yes.

4 Q. Okay. You applied for two copyright registrations; is  
5 that correct?

6 A. That is correct.

7 Q. Okay. What was wrong with the first application?

8 A. My legal counsel said that --

9 MR. ALLAN: Objection and don't say what your legal  
10 counsel said.

11 Q. I'm not asking for what your legal counsel told you.  
12 I'm asking for your understanding of why you decided to file  
13 for a second application?

14 A. It was on the advice -- can I say that?

15 MR. ALLAN: No.

16 A. No. I don't know how to answer the question then.

17 MR. ALLAN: Well, do you know why? Can we take a  
18 break?

19 Q. I would prefer to finish the answer to the question.

20 MR. ALLAN: If you can answer the question without  
21 disclosing communications that you had with counsel, go ahead  
22 and answer the question. If you can't without disclosing what  
23 you talked about with counsel, then I advise you not to answer  
24 the question.

25 A. Then I can't answer the question.

1 Q. Okay. The fact that you spoke with counsel is not  
2 privileged, merely the substance.

3 MR. ALLAN: Well, I think we're talking about the  
4 substance.

5 Q. Okay. You have no independent knowledge for why you  
6 applied for a second copyright application?

7 A. That is correct.

8 Q. Okay. Would you still like to take a break?

9 MR. ALLAN: I don't think so. I think we have just  
10 covered it.

11 Q. Okay.

12 A. Yeah.

13 Q. Okay. So we have Exhibit 25.

14 (Whereupon, Defendant's 25 is  
15 marked for identification.)

16 Q. Exhibit 25 is a copyright application dated December  
17 14th, 2018?

18 A. Yes.

19 Q. Okay. So, this was your application that you sent in  
20 on your own?

21 A. It does appear to be.

22 Q. Okay.

23 (Whereupon, Defendant's 26 is  
24 marked for identification.)

25 Q. Exhibit 26, this is the public catalog of the

1 copyright registration Wrong on Many Levels, correct?

2 A. Correct.

3 (Whereupon, Defendant's 27 is  
4 marked for identification.)

5 Q. Exhibit 27, this is the Certificate of Registration,  
6 correct?

7 A. That is correct.

8 Q. Okay. You stated on here this was not a work made for  
9 hire and that you are the author, correct?

10 A. That is correct.

11 Q. Okay.

12 (Whereupon, Defendant's 28 is  
13 marked for identification.)

14 Q. Exhibit 28 is a Certification of Registration marked  
15 VA 2-133-725, correct?

16 A. Correct.

17 Q. It is dated as the Effective Date of Registration is  
18 January 3rd, 2019, correct?

19 A. Correct.

20 Q. Okay. The Title of Work is 12082017knives. Did you  
21 select that title?

22 A. No, I did not.

23 Q. Okay. This identifies you as the author of the  
24 photograph, correct?

25 A. Correct.

1 Q. Okay. Do you recall what you intended to do with this  
2 copyright registration?

3 A. This, the first or the second?

4 Q. The second.

5 A. That was part of the whole copyright procedure so I  
6 could defend my work.

7 Q. Okay. Did you intend to make T shirts with this  
8 copyright registration?

9 A. I have thought about it.

10 Q. When did you think about it?

11 A. Probably a year and a half ago but I can't say for  
12 certain.

13 Q. Okay. So, you testified earlier that you did not  
14 intend to do anything with the photograph in December of 2017,  
15 correct?

16 A. At that point, yes, that's correct.

17 Q. So, at some point in time you thought you might do  
18 something with it?

19 A. Yes.

20 Q. Okay. What prompted this decision?

21 A. The fact that there were 20,000 shares.

22 Q. Okay.

23 A. Approximately.

24 Q. Why T shirts?

25 A. I had done T shirts for a family reunion so I knew

1 something about how to do them so I thought that would be good  
2 since I knew something about it but that's the only thing that  
3 came to mind.

4 Q. Have you ever made T shirts for public sale before?

5 A. Public sale before this, yes.

6 Q. When was that?

7 A. In either, yeah, November of 2019.

8 Q. So, not prior to December 2018?

9 A. No, that is not correct. I had also done some several  
10 years ago with CafePress for a couple different things that I  
11 thought were funny.

12 Q. Can you describe those T shirts to me, please?

13 A. At this point, no, I cannot. I do not remember  
14 them.

15 Q. But you believe that several years ago you used  
16 CafePress to make T shirts?

17 A. I didn't make any because I didn't sell any, so I made  
18 them available for sale.

19 Q. Okay. So, have you ever sold T shirts for public  
20 purchase?

21 A. Most recently, yes.

22 Q. Okay. What was that?

23 A. The fires that happened in northern California, they  
24 were stopped a quarter of a mile from my house so I made  
25 T shirts for a fundraiser for Cal Fire.

1 Q. Okay. When was that?

2 A. This would be in November of 2019.

3 Q. Okay. So, you said that the idea for T shirts with  
4 the photograph occurred to you about a year and a half ago?

5 A. Yes.

6 Q. So, prior to November 2019?

7 A. Right.

8 Q. So, at the time that this application was made, you  
9 had never sold T shirts before, correct?

10 A. That's correct.

11 Q. Have you made any T shirts with the photograph?

12 A. Not yet.

13 Q. Have you taken any steps in order to sell T shirts  
14 with the photograph?

15 A. Yes.

16 Q. Can you describe those steps for me, please?

17 A. I learned how to set up a Custom Ink account for the  
18 T shirts I described about Cal Fire.

19 Q. So, you have established an account?

20 A. Yes.

21 Q. Have you uploaded the photograph to that account?

22 A. Not yet.

23 Q. Okay. You did not disclose any of that in your  
24 interrogatories. Is there a reason?

25 A. I believe it is in the interrogatories where I talk

1 about how I have looked at doing the Custom Ink.

2 Q. Okay. Did you intend to sell the photograph through  
3 the medium of T shirts via third-party Custom Ink as your  
4 response to interrogatory number four in Exhibit 2, is that  
5 what you're referring to?

6 A. I believe so, yes.

7 Q. Okay. You did not disclose that you have an actual  
8 account with them yet, correct?

9 A. When I answered those interrogatories I had not set up  
10 the account yet.

11 Q. When did you set up that account?

12 A. A couple days after actually I had answered the  
13 interrogatories because that was when I, yes, after we moved  
14 back in after the evacuation from the fires.

15 Q. If you can pick up Exhibit 2, please, and go to page  
16 nine, do you see that that verification page is dated December  
17 6, 2019, correct?

18 A. That's correct.

19 Q. Okay. December 6, 2019 is after November 2019,  
20 correct?

21 A. That's correct.

22 Q. Okay. So, as of December 6, 2019 when you verified  
23 that the answers in this interrogatory request were true and  
24 complete, had you already created a Custom Ink account?

25 A. Yes, I had.

1 Q. Okay. Why did you verify -- why did you not disclose  
2 that as of the date of your verification?

3 A. I believe the response that I had given was  
4 sufficient, that I had been looking into Custom Ink. I didn't  
5 give all of the details to it but I didn't think the details  
6 of having set up a Custom Ink account was relevant.

7 Q. Okay. Mr. Bradley, when did you respond to these  
8 interrogatories?

9 A. Let's see. I received them it would be I believe it  
10 was the first Sunday in November.

11 Q. Okay.

12 A. It might have been the second Sunday.

13 Q. Do you recall making changes to the interrogatory  
14 responses?

15 A. Yes. I made one change because I left off one word.

16 Q. Okay. Do you remember making any changes after last  
17 Thursday?

18 A. Yes. It was one word.

19 Q. Mr. Bradley, you see that this Exhibit 2 is titled  
20 Plaintiff Matthew Bradley's Superseding Answers and Objections  
21 to Defendant's First Set of Interrogatories?

22 A. Yes.

23 Q. Okay. Do you understand that you have submitted two  
24 sets of responses to these interrogatories?

25 A. I understand you are saying that.



1 Q. Okay. Do you recall seeing two different sets of  
2 interrogatory responses?

3 A. That were submitted to you?

4 Q. Uh-huh.

5 A. No, I do not.

6 Q. Okay. So, you do not remember seeing a new set of  
7 interrogatory responses that were given to you to sign a  
8 verification page for last Thursday or Friday?

9 A. Yes, but I did not know that they were submitted to  
10 you, the first set.

11 Q. Okay. So, I'm going to ask you to please look through  
12 these responses that are here in Exhibit 2, just confirm to me  
13 that when you signed that verification you had actually seen  
14 every single one of these responses because some of them are  
15 materially different from the first set that was produced?

16 A. Yes, I have seen them and that is what I fixed with I  
17 believe the one word.

18 Q. Okay. And we can get the original set that was  
19 produced. More than one word was changed.

20 A. I don't know if you can or not.

21 Q. Okay. Can we take a break?

22 (Whereupon, a recess was taken.)

23 Q. Okay. Thank you for taking that moment.

24 (Whereupon, Defendant's 29 is  
25 marked for identification.)

1 Q. Mr. Bradley, you will see that Exhibit 29 is titled  
2 Plaintiff Matthew Bradley's Answers and Objections to  
3 Defendant's First Set of Interrogatories, where as Exhibit 2  
4 identifies that as the superseding answers and objections,  
5 correct?

6 A. Yep. Correct.

7 Q. Okay. Make sure we're on the same page here. You  
8 mentioned a moment ago that you were not aware that this first  
9 document of Exhibit 29 was produced; is that correct?

10 A. No. I said I wasn't aware that you had it.

11 Q. Okay. Fair enough. So you were not aware that it had  
12 been sent to counsel for defendant?

13 A. Correct.

14 Q. Okay. If you can please look at page seven of both  
15 Exhibit 2 and Exhibit 29?

16 A. Okay.

17 Q. All right. If you look at interrogatory number 13, it  
18 asks you to describe the fee arrangement between you and  
19 Liebowitz Law Firm, PLLC, Clements Bernard Walker, and Allan  
20 IP Litigation, and identify the payer of fees and costs for  
21 legal services in connection with this action, and then you  
22 see on Exhibit 29 that the answer is, "Plaintiff objects to  
23 interrogatory number 13 on grounds of attorney/client  
24 privilege. Accordingly, no further notice is required",  
25 correct?

1 A. That's correct.

2 Q. All right. Then if you can look over at the  
3 superseding responses, Exhibit 2, same interrogatory number  
4 13, you can see the response now to interrogatory number 13  
5 says, "Plaintiff has retained Liebowitz Law Firm, PLLC, the  
6 firm, to enforce his copyrights under a contingency fee  
7 arrangement, the Firm advances all costs associated with the  
8 litigation and then deducts such costs from the proceeds of  
9 litigation", correct?

10 A. Correct.

11 Q. Did you make that change?

12 A. That's an attorney/client privilege I believe.

13 MR. ALLAN: She just asked if you made that change.  
14 That's a yes or no.

15 A. Okay. I was making sure I understood. No, I did  
16 not.

17 Q. Okay. Were you aware of that change?

18 A. Yes.

19 Q. Okay. Thank you. Okay. Let's go back to T shirts.  
20 How has Analytical Grammar's post impacted your efforts to  
21 sell T shirts?

22 A. It has not.

23 Q. Okay. Because you had not yet made efforts to sell  
24 T shirts?

25 A. That's correct.

1 Q. Okay. When did you first contact somebody asking them  
2 to remove the photograph from the internet?

3 A. I believe that would have been December 2018.

4 Q. Okay. So, you don't recall any earlier incident of  
5 asking somebody to remove the photograph?

6 A. I do not recall.

7 Q. Okay.

8 (Whereupon, Defendant's 30 and 31  
9 are marked for identification.)

10 Q. Exhibit 30 and 31 are emails you sent, one to  
11 imgur.com and the other to Reddit, correct?

12 A. That's correct.

13 Q. The imgur email is dated December 14th and the Reddit  
14 email is dated December 17th, correct?

15 A. Correct.

16 Q. Okay. Do you recall any other emails you sent to  
17 third parties prior to these two?

18 A. Emails, no, I do not recall any emails.

19 Q. Do you recall any other forms of communications?

20 A. There were a couple around the same time. There were  
21 a total of five.

22 Q. Who were they to?

23 A. I don't recall.

24 Q. What was their format?

25 A. The format of what?

1 Q. The format of those communications?

2 A. Their web page had a comment submission form.

3 Q. Did you receive a confirmation from those web pages?

4 A. No, I did not.

5 Q. Okay. You don't recall what those other three  
6 websites were?

7 A. I do not recall what they are, what they were,  
8 no.

9 Q. Okay. Do you remember when you made them?

10 A. It would have been about the same time as these ones,  
11 December 2018.

12 Q. What did you do to try to identify those other three  
13 web pages?

14 A. I had done a Google image search and they came up.

15 Q. Okay. What efforts did you make after receiving the  
16 request for production of documents and interrogatories to  
17 remember or identify those other three web pages?

18 A. I have them in a Word document and I sent that to my  
19 attorney.

20 Q. You had a Word document with five different web pages  
21 you contacted?

22 A. Three other ones. These two are --

23 Q. Three in addition to imgur and Reddit?

24 A. Yes.

25 Q. Okay. That was not produced and we need to see that.

(Whereupon, Defendant's 32 is  
marked for identification.)

Q. All right. Exhibit 32 is a response you received from  
Reddit legal support and then your response to it as well?

A. Yes.

Q. Did you receive any other responses to those total of  
five inquiries that you sent?

A. Not that I'm aware of.

Q. Okay. Did you follow up with any of those five?

A. Directly, no.

Q. Okay. So, between December of 2018 and the present,  
you have not followed up with any of those?

A. No. Directly with them, no.

Q. Okay. So, you have referred them to counsel?

A. Correct.

Q. All five of them?

A. Yes.

Q. Okay. You still cannot remember the other three?

A. I don't remember off hand, no, I don't.

Q. Okay. And you don't recall whether any of the five,  
other than this response from Reddit, responded?

A. If I recall correctly one of the other ones did  
message me a chat message saying that they would remove it,  
but I may be mistaken at that point. I may be mistaken.

Q. Okay. Your post, the photograph, excuse me, was

1 shared many more than five times in five places, correct?

2 A. As far as I know, it was shared from my Facebook page,  
3 that's what I know, is 20,000 times and now I see on the  
4 Analytical Grammar one it was shared 13,000 times. Those are  
5 the only places where I know that it has been shared.

6 Q. Okay. You're referring to the Facebook post being  
7 shared on Facebook, correct?

8 A. Correct.

9 Q. Okay. The photograph, you stated that you did a  
10 Google image search?

11 A. Yes.

12 Q. And saw that the photograph was showing up on many,  
13 many websites separate from Facebook, correct?

14 A. Yes.

15 Q. More than five?

16 A. Yes.

17 Q. Okay. Did you reach out to every single one of those  
18 organizations?

19 A. No.

20 Q. Okay. Did you reach any licensing agreements with any  
21 third parties to use the photograph?

22 A. No.

23 Q. Did you reach any other type of agreement with third  
24 parties to use the photograph?

25 A. No.

1 Q. Other than the five web pages you have already  
2 identified, did you reach out to any other third parties to  
3 attempt to arrange an agreement or license for use of the  
4 photograph?

5 A. Not that I recall.

6 Q. Okay. When did you decide to sue Analytical Grammar?

7 A. I believe that's in the response. The date on it I  
8 believe was June of 2019. I know it's in the interrogatories.  
9 I can't remember the exact date but I did have an email when I  
10 responded to them which gave the time stamp on there.

11 (Whereupon, Defendant's 33 is  
12 marked for identification.)

13 Q. Is that the email you're remembering?

14 A. Yes. June 2019, that's correct.

15 Q. This is not an email from you, correct?

16 A. No. This is the email that was sent from my law firm,  
17 my legal counsel.

18 MR. ALLAN: This was sent by your legal counsel to  
19 you?

20 A. Yes.

21 MR. ALLAN: Okay. This shouldn't -- I'm going to ask  
22 to have this attorney/client privileged information.

23 Q. Well, let me ask this, were they your legal counsel at  
24 the time you received this?

25 A. Yes.



1 Q. You had already hired them when you received this  
2 email?

3 A. I already said yes.

4 Q. Okay. How did you learn about Mr. Liebowitz?

5 A. Google search.

6 Q. What did you search?

7 A. DRM attorney I believe.

8 Q. Okay. What did that mean to you?

9 A. Digital rights management attorneys.

10 Q. What were you looking for in an attorney?

11 A. Someone who would take care of things like this.

12 Q. Define like this?

13 A. Like those first five. I just didn't want to do it on  
14 my own and so I wanted someone to take care of it for me.

15 Q. Okay. When did you decide to hire counsel or to  
16 research counsel first?

17 A. December 2018 shortly after I sent those five, after  
18 the copyright and after I sent those five companies emails or  
19 messages.

20 Q. Okay. Did you spend those six months in between  
21 December 2018 and June 10, 2019 researching?

22 A. I'm not sure I understand your question. I did other  
23 things. I mean, not the entire six months. I occasionally  
24 looked into it but I essentially let the law firm take care of  
25 it.

1 Q. Yes, but so in between December 2018 and June 10,  
2 2019, did you look at other law firms?

3 A. No.

4 Q. Okay. What were you looking for in counsel?

5 A. Someone who would take care of this for me.

6 Q. Okay. What does take care of this for you mean to  
7 you?

8 A. Pursue any legal remedies that were appropriate.

9 Q. Okay. Why pursue Analytical Grammar?

10 A. Because it was suggested as one of the, one of the  
11 places that infringed on my copyright.

12 Q. Were you aware of Analytical Grammar before this June  
13 10th email?

14 A. No.

15 Q. Have you initiated lawsuits against anyone else for  
16 use of the photograph?

17 A. They have been initiated.

18 MR. ALLAN: Answer the question.

19 A. Okay. Just making sure.

20 MR. ALLAN: Listen to the question. Just answer the  
21 question.

22 A. Yes.

23 Q. Okay. How many?

24 A. I don't know off hand.

25 Q. Fewer than ten?

1 A. Yes.

2 Q. Okay. Are you, were you aware of the defendants in  
3 those lawsuits prior to notification from any third party?

4 A. No.

5 Q. Okay. As you saw in Exhibit 2, the superseding  
6 interrogatory responses, interrogatory 13 --

7 MR. ALLAN: Before we get off topic, based upon what I  
8 have heard, he indicated that he was represented by  
9 Mr. Liebowitz at the time of this email so I'm going to ask  
10 that we claw back document MB 087.

11 MS. LAWSON: Understood. We'll have to confirm with  
12 the privilege log that was produced in the case just to check  
13 that time line, but if that's true, of course.

14 Q. So, Exhibit 2, the interrogatory responses, you saw  
15 that one of the changes was to interrogatory 13. So, you  
16 understand that you have a contingency fee arrangement,  
17 correct?

18 A. Correct.

19 Q. Okay. What is your understanding of what that  
20 means?

21 A. Contingency fees, for example, there is a certain  
22 amount of, for example, if the case goes forward and a certain  
23 amount of money is settled on or set by the courts, then the  
24 fee, there is certain fees that come out of that and then a  
25 percentage goes to the attorney and a percentage goes to me.

1 Q. Okay. What is the split that you have agreed to?

2 MR. ALLAN: Objection. I'm going to advise you not to  
3 answer that on the grounds it's attorney/client  
4 communication.

5 MS. LAWSON: Fee arrangements are typically in the 4th  
6 Circuit allowed to be disclosed and held to be not privileged.

7 MR. ALLAN: Can you show me something on that? You  
8 may be right. I don't come across this as an issue typically,  
9 so.

10 MS. LAWSON: We'll check into that.

11 (Whereupon, Defendant's 34 is  
12 marked for identification.)

13 Q. You produced Exhibit 34 identifying it as August 2019  
14 One Deleted Comment. What is this?

15 A. Someone, a supporter of Analytical Grammar had left a  
16 very nasty remark there and I was attempting to recreate it.  
17 I thought I had. I had not so you can't really see what it  
18 is.

19 Q. Okay. This was a post that you made?

20 A. A share I had made from Blanca Perla.

21 Q. Got you. You said that somebody from Analytical  
22 Grammar made a comment?

23 A. No. A supporter.

24 Q. A supporter.

25 A. I believe it's a supporter just because of the

1 language. I believe she even said something about Analytical  
2 Grammar. I can't remember the exact words.

3 Q. Okay.

4 A. And I was annoyed and deleted it.

5 Q. Do you believe that this person is associated with  
6 Analytical Grammar?

7 A. I don't know.

8 Q. Okay. You stated in your complaint, I believe in your  
9 interrogatories which, yes, if you can go to page six of  
10 Exhibit 2?

11 A. Okay.

12 Q. If you look at your response to interrogatory 9, you  
13 say that although Plaintiff cannot state with certainty about  
14 their relation to the Defendant, Plaintiff has received  
15 numerous insulting remarks from people who he assumes are  
16 favoring the Defendant. What is the basis for that  
17 assumption?

18 A. Frequently these remarks mention Analytical Grammar.

19 Q. Okay. Do you have any basis to believe that they are  
20 associated with Analytical Grammar?

21 A. Associated, what do you mean by associated?

22 Q. That they are personally connected to Analytical  
23 Grammar. Let me ask it a different way. Do you have any  
24 basis to believe that Analytical Grammar's employees have been  
25 posting insulting remarks on your Facebook?

1 A. No.

2 Q. Do you have any basis to believe that relatives of  
3 employees of Analytical Grammar have been posting on your  
4 Facebook?

5 A. I don't know. One way or the other, I do not know.

6 Q. So, you have no basis for an affirmative belief?

7 A. No. No. No.

8 Q. Do you have any basis for the belief that customers of  
9 Analytical Grammar are posting on your Facebook?

10 A. Yes because some of the remarks I have seen have  
11 referenced something like that.

12 Q. Referenced that they were customers of Analytical  
13 Grammar?

14 A. I believe so.

15 Q. Okay. Do you know where those comments are?

16 A. Yes.

17 Q. Where?

18 A. On Analytical Grammar's GoFundMe Facebook page.

19 Q. Okay. So, not on your Facebook page?

20 A. That's correct.

21 Q. Okay. So, you are not aware of any customers of  
22 Analytical Grammar posting insulting comments on your Facebook  
23 page?

24 A. No, that's not correct. What I'm saying is they would  
25 say they were customers, if I recall correctly, but they would

1 say something about the fact that they were customers on  
2 Analytical Grammar's web page and then they would comment on  
3 mine.

4 Q. The same people?

5 A. I believe so.

6 Q. Okay. Have you identified those people in your  
7 production?

8 A. No. I didn't think it was relevant.

9 Q. Interrogatory number 9 asks you to describe with  
10 particularity all communications you have had with third  
11 parties related to the photograph, Defendant and/or this  
12 action, and you're telling me that there are comments that  
13 have been made on your Facebook, so communications?

14 A. Yes.

15 Q. From people you believe to be customers that you have  
16 not, of Analytical Grammar, that you have not identified?

17 A. That's correct.

18 Q. Okay. So, when your response to interrogatory number  
19 9 does not actually name anybody or point to any examples in  
20 your production of individuals who have said that that you  
21 believe are customers, that answer to that interrogatory  
22 number 9 is not true?

23 MR. ALLAN: Objection.

24 A. No. No, that's not true.

25 Q. Okay. Why is it not true?

1       A. Because, as I have said, they left the remarks on my  
2 web page, my Facebook page, and looking at the Analytical  
3 Grammar page, I saw that they were customers of Analytical  
4 Grammar or friends of Analytical Grammar or whatever. They  
5 were third parties and I produced all of that, including the  
6 one deleted comment which that's where it was.

7       Q. Okay. But the deleted comment does not show anybody  
8 making an insulting comment to you?

9       A. No, it doesn't but I was trying to produce every place  
10 where I had seen remarks like that.

11       Q. Okay. What else have you produced that shows the  
12 insulting comments that you're referring to?

13       A. They're in the comments on the drills, for examples,  
14 and also in the original posting. I believe that you have  
15 that as the large exhibit. It would be maybe Exhibit 3 I  
16 believe.

17       Q. Yes. Mr. Bradley, I am aware that there are comments  
18 that could be perceived as insulting potentially.

19       A. Yes.

20       Q. What I'm asking you is have you actually described the  
21 individuals that you believe have done that and described the  
22 basis of your belief for their connection to Analytical  
23 Grammar?

24       A. I believe I have gone over that. I believe that I  
25 have seen the same names on Analytical Grammar's Facebook page



1 and then commenting on mine and they also left very insulting  
2 remarks on the Analytical Grammar page about me.

3 Q. Okay. If you can again look at page six of the  
4 interrogatory?

5 A. Yes.

6 Q. Look at response to interrogatory number 9.

7 A. Yes.

8 Q. Does that response describe any of the information  
9 that you just conveyed to me?

10 A. The part that's on my Facebook page because it says  
11 particularly all communications you have had with third  
12 parties. That's all included in those documents.

13 Q. Okay. So, other than the documents you have produced  
14 to us, you are not aware of any of those communications?

15 A. There are no other communications. No one has  
16 communicated in any way with me.

17 Q. Okay. And the exclusive basis for your belief that  
18 some of those are customers of Analytical Grammar is a  
19 connection you have independently made between looking at  
20 posts on Analytical Grammar's Facebook page and your posts?

21 A. Yes.

22 Q. Okay.

23 A. And I may be wrong.

24 Q. Okay.

25 A. It's just my belief.

1 Q. Okay. All right. Let's take a seven minute break.  
2 (Whereupon, a recess was taken.)

3 Q. Mr. Bradley, what is your contingency fee arrangement  
4 with your counsel?

5 A. Honestly, I don't remember the details, I don't.

6 Q. Okay. So, you don't remember whether it's 60/40,  
7 70/30, any of that split?

8 A. I don't remember, no.

9 Q. Okay. We'll follow up with an interrogatory. Last  
10 question, why did you choose to use a contingency fee?

11 A. It seemed easy.

12 Q. Okay. What was easy about it?

13 A. It's a very straightforward arrangement so I didn't  
14 have to worry about it.

15 Q. What would you worry about with a different fee  
16 arrangement?

17 A. Depending on the arrangement.

18 Q. If you were to be paying your attorney by the hour,  
19 what would your worry be?

20 A. I would worry about how honest my attorney is and  
21 whether he's just trying to run up the bill.

22 Q. And if you were to pay per proceeding, what would you  
23 worry about?

24 A. Same thing.

25 Q. So, a payment per proceeding is a fixed cost to go

1 through a complaint or a motion to dismiss or a certain point  
2 in time in litigation, so it's unrelated to how many hours the  
3 attorney works on the matter.

4 A. That's correct.

5 Q. What about that would worry you?

6 A. Again, same thing, that there would be all kinds of  
7 motions, all kinds of proceedings and I would end up paying  
8 for each and every one of them and, you know, the attorney  
9 could run up the bill that way.

10 Q. Okay. If it were an arrangement that was X number of  
11 dollars from filing the complaint through the finish of the  
12 case, never going to be changed no matter how much work was  
13 done on it, what would you worry about it then?

14 A. That would depend on X. If X is \$10 it's one thing.  
15 If it's \$10,000 it is entirely different.

16 Q. If it is whatever amount you thought reasonable?

17 A. I would have to consider it, but no one made that  
18 offer so I didn't consider it.

19 Q. Okay. My question though is you said that the  
20 contingency fee arrangement means it's something you don't  
21 have to worry about.

22 A. Yes.

23 Q. I'm trying to understand the nature and scope of your  
24 worry through non contingency fee arrangements?

25 A. Because in a contingency fee, all of the money goes to

1 the lawyer first and then I get whatever I'm supposed to get  
2 after that. I don't have to put money up front. I don't have  
3 to pay money regularly. It's all very simple.

4 Q. So, you don't have to bear the risk?

5 A. Well, it's kind of a shared risk in many ways.

6 Q. Okay. You are not risking your money up front?

7 A. That's also true. I hadn't really thought of that but  
8 that's also true.

9 MS. LAWSON: All right. I think we are done for  
10 today. I'm going to hold this deposition open, however,  
11 because there is going to need to be a supplementation of  
12 document production. Those documents should be sufficient but  
13 obviously we don't know what is going to happen.

14 MR. ALLAN: Well, I guess that's between you and  
15 Mr. Liebowitz at the appropriate time. We're here for up to  
16 seven hours. I understand your issues so let's just say I  
17 object to that, but I understand. I have no questions. We  
18 would like to read and sign.

19  
20 (Whereupon, at 12:33 P.M., the deposition in the  
21 above-entitled matter ceased.)  
22  
23  
24  
25

DEPOSITION ERRATA SHEET

Date Taken: December 12, 2019

Witness: Matthew Bradley

I, Matthew Bradley, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that it is a true and accurate record of my testimony (with the exception of the corrections listed below):

Page	Line	Correction
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

WITNESS my hand and seal on this the \_\_\_\_ day of \_\_\_\_\_, 2019.

WITNESS SIGNATURE

This deposition certificate was signed in my presence by \_\_\_\_\_ on the \_\_\_\_ of \_\_\_\_\_, 2019.

NOTARY PUBLIC

NOTARY NO. \_\_\_\_\_ My Commission expires: \_\_\_\_\_

CERTIFICATE OF COURT REPORTER

North Carolina

Wake County

I, Kathleen M. Van Voorhis, Notary Public in and for the State of North Carolina, certify that on December 12, 2019, in Raleigh, North Carolina, Matthew Bradley, produced to me satisfactory evidence of identification and was duly sworn by me prior to the taking of the foregoing deposition to tell the truth, thereupon testified as set forth in the preceding pages, exclusive of errata sheet and signature page, if required, the examination being reported by me in stenotype and reduced to typewritten form by me personally.

I further certify that I am not of counsel or in the employ of the parties to this action; that I am not related by blood or connected by marriage to the parties of this action; that I am not interested in the outcome thereof; that the foregoing is a true and accurate transcript of said proceeding to the best of my ability and understanding.

This the 23rd day of December, 2019.

Kathy Van Voorhis

KATHLEEN M. VAN VOORHIS

Registered Professional Reporter

Notary Public, #19971530155

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